

## **APPENDIX 4**

08 April 2021

Letter received by post and email objecting to the making of the TPO , enclosing an e-mail from Talisman Tree care and photos.

29<sup>th</sup> March 2021

### **OBJECTION LETTER FROM TREE OWNER**

TREES TEAM

Southampton City Council

Civic Centre

Southampton

SO14 7LY

**Jacqui Turner & Giles Brotherton**

158 Athelstan Road

Bitterne

Southampton

SO19 4DJ

Dear Sir /Madam

**Your ref: T2-738**

We are writing to object to the Tree Preservation Order placed on an Oak tree at the bottom of our garden, at 158 Athelstan Road, Bitterne, SO19 4DJ.

We purchased this property in January 2020 knowing the house and garden needed a full renovation. In July 2020 we began making enquiries with the Southampton City Council Tree Team. Our concerns were, and still are, that the Oak tree significantly overhangs and overshadows our garden by approximately a third which prevents grass/plants growing underneath. It also has a predominant lean northwest. However, as there is no boundary fence, we were unsure who the tree belonged to. Other than a chain link fence between us and the allotments, there is no real fence on our rear boundary and we need to rectify this to make the garden safe and accessible for our toddler and two dogs. All along, we have wanted to do right by the tree and this can be clearly seen by our correspondence with the tree team.

During our enquiries with the tree team, it was confirmed on a number of occasions that the tree was not subject to a TPO and we should seek advice from a tree surgeon. We have now spoken with three tree surgeons. The last person to see the tree, David Patterson of Talisman Tree Care, inspected it after we dug out the rubble and compost at the bottom of

the garden, some of which surrounded the trunk. Mr Patterson has stated that the tree is afflicted with honey fungus and has been previously pollarded and maintained (not by us). We also now believe the tree predominantly sits on our land, which would make sense as the previous owner planted it. The Oak tree can not be seen from a public place, but can be seen by our neighbours. However it is one of many tree visible to the neighbours. Based on these findings we would ask that the tree was not subject to a TPO and that we be allowed to do the recommended crown reduction which would reduce the weight loads on the trunk and reduce the wind sail, which would hopefully prolong the life of the tree.

I have attached photographs of the tree, the overhang and the honey fungus, along with the email from Mr Patterson.

Yours sincerely

Jacqui Turner & Giles Brotherton

### **ENCLOSED E-MAIL FROM TALISMAN TREE CARE TO TREE OWNER**

Hi Giles, sorry it's taken ages to get back to you. Was a manic weekend!

The Oak tree in question looks to have been pollarded early on in its life and also reduced more recently. Looks to be signs of Armillaria (Honey Fungus) rhizomorphs (bootlaces) around and on the trunk at ground level so this may be something to keep an eye on. Normally in the Autumn you'll find the fruiting bodies (mushrooms) showing nearby as they'll be on the root system.

If it is as i suspect, infected then given the predominant lean, wind sail and exposed location to the prevailing wind a crown reduction and thin might help to retain the tree as long as possible. Would be a case of reducing the crown to remove a bit of weight/mechanical loading and wind sail whilst retaining enough leaf for the tree to sustain a healthy energy source.

Any questions please feel free to call or email

Ta,

Dave

### **ENCLOSED PHOTOS FROM TALISMAN TREECARE**







See next page

**LETTER SENT IN RESPONSE TO OBJECTION BY POST AND EMAIL TO THE TREE OWNERS AT 158  
ATHELSTAN ROAD**

Southampton City Council Civic Centre Southampton SO14 7LY

Southampton City Council Civic Centre Southampton SO14 7LY

**Trees Team** Southampton City Council Civic Centre Southampton SO14 7LY

Ms J Turner and Mr G Brotherton  
158 Athelstan Road  
Bitterne  
Southampton  
SO19 4DJ  
22 April 2021

Dear Ms Turner and Mr Brotherton

Many thanks for contacting tree team in relation to the newly made Tree Preservation Order (TPO) that has been applied to an Oak tree that sits on the rear boundary of your property of 158 Athelstan Road. I note that you have raised several points in relation to the making of the order and wish to make an objection in relation to this.

I have considered the points of your objection and can offer you a response to each. I hope that I am able to give you enough information that will show why the order was made and also to allay any concerns that you have with the tree being protected.

The reason why the decision was made to place a TPO on this tree was due to the uncertainty of its long term retention. It is not unusual for the tree team to receive requests from members of the public to ask if a tree is protected. If the tree has no order at the time of the request, then this information is given as long as it is entirely clear and that the tree didn't form part of an adjoining TPO, which I believe was the case in this instance as the Oak may have been included in the adjoining TPO on the neighbouring land. Even if a resident states that they only wish to carry out minor work to the tree, if not protected then this allows for greater work or even felling to occur, to which the local authority had the opportunity to protect the tree for the long term amenity to the local area.

A site visit was undertaken and a TEMPO (Tree Evaluation Method for Protection Orders) assessment was undertaken. This is an industry accepted method of assessing the suitability of a protection order. You will see from the attached TEMPO that some of my scores are conservative assessments. This has been done to give the lowest score to the assessing officer and at the end of the assessment, if the required figures support the making of the order, then this can give confidence that it is appropriate. I note that you say that the tree cannot be seen from the public area, however it is visible when viewed between the properties and over the garage roof. I am in agreement that not all of the tree can be seen, however you will see from the assessment on the TEMPO, this has been accounted for. I feel that it is important to understand that the term 'amenity' has not been defined in the TPO legislation, therefore one must consider all aspects of amenity, which along with visual amenity, the impact to the ecology and environment, of which the tree is contributing to, form part of its amenity. Amenity is described as 'anything that makes life more pleasant', therefore I only see it fair to consider the benefits to the environment that the tree provides and certainly making life more pleasant.

The oak tree sits on the western boundary of your property. From an initial estimation of the canopy coverage of the garden, it equates to somewhere in the region of 50 square metres of a 225 square metre garden being beneath the canopy, which equates to approximately 22% of the garden surface. I have undertaken an assessment of the loss of garden and light to the garden and I am of the opinion that it is not excessive. In addition to the calculation of garden beneath the tree, I have assessed the impact to sunlight that the garden would receive on the 21<sup>st</sup> of July and at 12:40pm the shadow would run along the rear boundary and based on a 7 metre high tree, the shadow length would be 4.24 metres.

The shadow would then move around to the east, which is toward the rear of the property and at 17:00, the shadow caused by the tree would be 9.6 metres. At 18:00 the shadow would be directly East and toward the rear of the property and at this time of day it would be 13.81 metres, which still allows sun light to reach the rear of the property.

As the garden rises from the tree, in effect this would adjust the shadow length as the calculations above are based on the land being flat and not rising or falling. Any change in the topography will naturally alter the shadow length.

In your objection you mention that a tree surgeon has alleged that the tree is infected with Honey Fungus, however this is not proven and the presence of rhizomorphs in the leaf litter and soil around trees is not a positive sign that the tree has been colonised. Unless it can be demonstrated that the tree is colonised with with Honey fungus, then the presence of Rhizomorphs should not be taken to indicate that the tree is infected. It is worth noting that Quercus (oak) are noted to have a useful degree of resistance. This is not to say that oak will not be infected, just that the tree has some degree of resistance to infection.

I note that the tree surgeon has suggested carrying out a crown reduction, which is something that the city council can consider and grant consent under the TPO, however it should not be extensive and cause the significant loss of leaf bearing structure, therefore a crown reduction of 1.5 to 2 metres should be suited to this tree. Part of the reason for making the TPO was the uncertainty of the level of work that may happen to the tree as it was suggested to re-pollard the tree, which is highly unsuitable and highly detrimental to the tree's health, therefore to prevent significant harm being caused or the loss of the tree, a TPO was deemed suitable.

The next steps that are available to you are to either remove your objection and the TPO will be confirmed and an application can be submitted for the crown reduction, or to uphold your objection and present your objection to a planning & rights of way panel. This meeting is a public meeting and it gives you the opportunity to present your case to the panel of elected members and after a tree officer has given their justification for making the order, the members will vote on the validity of the TPO. If the members agree with the tree officer, the order is then confirmed, however if the members do not agree with the tree officer's assessment, then the order will be lifted and you are free to carry out any work to the tree that you wish without the need for the council's permission.

I hope that I have been able to give you a satisfactory explanation as to why it was deemed necessary to place the order on the tree and that it is not to be considered to be restrictive to the point that no work can ever be taken on this tree. The council understand that the tree is private and that the tree owners may wish to manage their tree, and for a number of reasons. Therefore if the work is considered to be appropriate, then it would be approved. As mentioned above, if a crown reduction of up to 2 metres from the branch tips will remove your concerns and achieve your desired effect, then this can be applied for and approval given. If, however, you deem this not to be enough then you can either apply for the work you wish and appeal to the planning inspector about the decision. It is worth mentioning and this juncture that both the application and appeal process is free of charge and can be submitted via the post or electronically.

Please let me know your thoughts on his matter and how you wish to process. If you wish to uphold the objection, this will be booked on to a forthcoming panel meeting around July-August time. If you wish to apply for the crown reduction, please let me know if you need a paper copy of the application form and I can have this sent to you.

I look forward to hearing from you in due course.

Kind regards

*M Mushens*

Maria Mushens

Assistant Tree Officer